

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CRISTALI FERNANDEZ,

Plaintiff,

VS.

CREDIT ACCEPTANCE
CORPORATION,

Defendant.

No.

Filed Electronically

NOTICE OF REMOVAL

Defendant Credit Acceptance Corporation (“Credit Acceptance”), by counsel, and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby removes the above-entitled action, which is currently pending in the Superior Court of New Jersey, Law Division Special Civil Part, Hudson County (Docket No. DC-006909-16), and states as follows:

Background

1. On July 28, 2016, Plaintiff, Cristali Fernandez (“Plaintiff”), commenced an action against Credit Acceptance in the Superior Court of New Jersey, Law Division Special Civil Part, Hudson County by filing a Complaint against Credit Acceptance alleging violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”). A copy of Plaintiff’s Complaint is attached as Exhibit A.

2. Credit Acceptance was purportedly served with a copy of this Complaint on August 8, 2016.

3. The Complaint constitutes “all process, pleadings, and orders served upon” Credit Acceptance in this action to date. 28 U.S.C. § 1446(a).

Timeliness of Removal

4. Credit Acceptance received notice of this action through the service of the Complaint on August 8, 2016. Therefore, this notice of removal is timely under 28 U.S.C. § 1446(b) because less than 30 days have passed since Credit Acceptance was served with Plaintiff's Complaint.

Removal Jurisdiction

5. This action is properly removable under 28 U.S.C. § 1441(a) because this Court has original jurisdiction of this case under 28 U.S.C. § 1331, which provides in pertinent part: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

6. Specifically, Plaintiff's Complaint alleges that Credit Acceptance violated the TCPA. Therefore, this is a civil action "arising under the Constitution, laws, or treaties of the United States" pursuant to Section 1331, and removal is appropriate pursuant to Sections 1441 and 1446.

7. Removal to this court is proper as the United State District Court, District of New Jersey embraces the Superior Court of New Jersey, Law Division Special Civil Part, Hudson County, where the state court action was filed.

Notice to State Court and Plaintiff

8. Pursuant to 28 U.S.C. § 1446(d), Credit Acceptance is promptly providing written notice of this removal to Plaintiff and will promptly file a copy of this Notice of Removal with the Clerk of the Court for the Superior Court of New Jersey, Law Division Special Civil Part, Hudson County.

WHEREFORE, Defendant Credit Acceptance Corporation respectfully requests that the above-entitled action be removed from the Superior Court of New Jersey, Law Division Special Civil Part, Hudson County to this Court.

LOCAL RULE 11.2 CERTIFICATION

I certify that the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Respectfully submitted,

CREDIT ACCEPTANCE CORPORATION

By: /s/ Thomas F. Lucchesi

Eric M. Hurwitz

Thomas F. Lucchesi

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Date: September 6, 2016

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CERTIFICATE OF SERVICE

I, Thomas F. Lucchesi, hereby certify that on September 6, 2016, I caused the foregoing Notice of Removal, and accompanying exhibits, to be electronically filed via the Court's ECF system. The foregoing documents are available for viewing and downloading from the PACER system.

I further certify that on this date, I caused a true and correct copy of the foregoing to be served via UPS Overnight Delivery and First Class U.S. Mail, postage prepaid, upon the following:

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/s/ Thomas F. Lucchesi
Thomas F. Lucchesi

EXHIBIT “A”